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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,848	12/22/2003	Keith O. Cowan	030506 (BLL-0135)	9081

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EXAMINER	
PULLIAM, CHRISTYANN R	

ART UNIT	PAPER NUMBER
2165	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/743,848	COWAN ET AL.	
	Examiner	Art Unit	
	Christyann Pulliam	2165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 December 2007 and 03 January 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20 and 22-25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20 and 22-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *1/3/2008*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 14, 2007 has been entered.

2. Claims 1-20 and 22-25 are pending. Claims 1, 7, 14 and 22 are currently amended. Claims 2-3, 8, 10-11, 15-16, 20, and 23-25 are previously presented. Claims 4-6, 9, 12-13 and 17-19 are original. Claim 21 is cancelled.

3. The claim objection from the prior office action is overcome by the amendments.

4. The Information Disclosure Statement filed on January 3, 2008 is not considered because it is duplicative of a prior Information Disclosure Statement.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-20 and 22-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The amended claims created some indefinite elements in the claims. In Claims 1 and 14, the addition of "storing the broadcast television programming on a consumer digital video recorder accessible over a consumer network without interaction from the consumer" causes confusion regarding the scope of the claims. First, it is unclear to whom or what is the "consumer digital video recorder accessible" since the storage occurs without the consumer and there are multiple networks in the claims. The main issue is the introduction of "a consumer network". There is already a "distribution network" in the claims. It is unclear if this "consumer network" is another network or not. This issue also arises in Claims 14 and 22. Further for Claims 1, 7, and 14, it is unclear how the storing can be "without interaction with the consumer" when the distribution is based on the community of consumers interaction with content and there is a preference setting that the consumer can set in order top have the distribution occur automatically. Claim 4 and 17 appear to be repeating functionality that is now in Claim 1 unless there is a second storage of the content of a separate consumer storage device. Claim 7 states "in response to the community interest for storing the broadcast television programming... without interaction from the consumer". It is unclear if the community interest is really in storing the content or in the content itself. Claim 13 appears to duplicate functionality already in Claim 7. Claim 20 states "the content includes at lest one of video, audio and consumer-generated content". This seems to be at least somewhat inconsistent with

the new limitation in the parent Claim 14 that the content is broadcast television programming. Claim 25 states that the storage in "across a plurality of network elements including... a consumer storage device". This is at least somewhat inconsistent or confusing as to which element or element the storage will occur on with the parent Claim 22 which notifying the consumer that the content is available to be storage on "a consumer digital video recorder". Overall, the amendments were not carefully incorporated into the claims using consistent terminology. Additional changes are required to make the claims definite. Accordingly, Claims 1-20 and 22-25 are indefinite.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 1-4, 6-10, 12-17, 19-20 and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knight et al., U.S. Patent No. 6,721,748 (hereinafter Knight), in view of Pea et al., U.S. PGPub. No. 2004/0125133 (hereinafter Pea) and Yap et al., U.S. PGPub. No. 2002/0092021 (hereinafter Yap).

As for Claims 1 and 14, Knight teaches:

allowing a consumer to join a community (See e.g. Knight - subscribers – col. 5, lines 9-14);

monitoring access to content by members of the community (See e.g. Knight - col. 6, lines 48-53)...

determining a community interest in the content in response to members of the community accessing the content (See e.g. Knight - col. 6, lines 48-58); and

automatically distributing the content to the consumer over the distribution network in response to the community interest (See e.g. Knight - col. 6, lines 32-38).

Knight does not expressly call its network a grid computing network. However, Pea teaches the monitoring being performed by a grid computing platform implemented by a plurality of geographically dispersed network elements, the grid computing platform executing a grid application to control resources within a distribution network (See e.g. Pea - paragraphs [0061] and [0095-0109]).

Knight teaches delivery of content without user interaction (See e.g. Knight – Abstract and col. 6, lines 32-60). Knight does not expressly call its digital content broadcast television. However, Yap teaches the content being broadcast television programming (See e.g. Yap – paragraph [0039]). Yap also teaches storing the broadcast television programming on a consumer digital video recorder accessible over a consumer network without interaction from the consumer (See e.g. Yap – paragraphs [0011-0012], [0035-0040] and [0049-0052]).

Knight and Pea are from the analogous art of content distribution. It would have been obvious to one of ordinary skill in the art at the time the invention was made having the teachings of Knight and Pea to have combined Knight and Pea. The motivation to combine Knight and Pea is improve access to content in a networked user community. Pea adds details about the video creation and grid networking for distribution to the system of Knight. Both deal with authoring, sharing and distributing content to users. Both track interaction profiles and user communities. It would have been obvious to one of ordinary skill in the art to have combined Knight and Pea.

Knight and Yap are from the analogous art of personalized content distribution. It would have been obvious to one of ordinary skill in the art at the time the invention was made having the teachings of Knight and Yap to have combined Knight and Yap. The motivation to combine Knight and Yap is improve access to personalized content in a networked user community. Yap adds the storage device of a DVR to the community content distribution system of Knight. Both are concerned with providing users with content tailored to their interests. Knight automates the discovery of content of interest for the Yap user. It would have been obvious to one of ordinary skill in the art to have combined Knight and Yap.

As for Claim 7, Knight teaches:

A system for distributing content to consumers, the system comprising:

a network element receiving a request from a consumer to join a community (See e.g. Knight - subscribers – col. 5, lines 9-14);

a database coupled to the network element maintaining records of one or more communities associated with the consumer (See e.g. Knight – col. 6, lines 53-60);

a consumer network in communication with the network element (See e.g. Knight – col. 6, lines 53-60 and Figure 2);

the network element monitoring access to content by members of the community (See e.g. Knight - col. 6, lines 48-53);

the network element determining a community interest in the content in response to members of the community accessing the content (See e.g. Knight - col. 6, lines 48-58); and

the network element automatically distributing the content to the consumer network in response to the community interest (See e.g. Knight - col. 6, lines 32-38).

Knight does not expressly call its network a grid computing network. However, Pea teaches the network element being part of a grid computing platform implemented by a plurality of geographically dispersed network elements, the grid computing platform executing a grid application to control resources within a distribution network (See e.g. Pea - paragraphs [0061] and [0095-0109]).

Knight teaches delivery of content without user interaction (See e.g. Knight – Abstract and col. 6, lines 32-60). Knight does not expressly call its digital content broadcast television. However, Yap teaches the content being broadcast television programming (See e.g. Yap – paragraph [0039]). Yap also teaches for storing the broadcast television programming on a consumer digital video recorder accessible over

a consumer network without interaction from the consumer (See e.g. Yap – paragraphs [0011-0012], [0035-0040] and [0049-0052]).

Knight and Pea are from the analogous art of content distribution. It would have been obvious to one of ordinary skill in the art at the time the invention was made having the teachings of Knight and Pea to have combined Knight and Pea. The motivation to combine Knight and Pea is improve access to content in a networked user community. Pea adds details about the video creation and grid networking for distribution to the system of Knight. Both deal with authoring, sharing and distributing content to users. Both track interaction profiles and user communities.

Knight and Yap are from the analogous art of personalized content distribution. It would have been obvious to one of ordinary skill in the art at the time the invention was made having the teachings of Knight and Yap to have combined Knight and Yap. The motivation to combine Knight and Yap is improve access to personalized content in a networked user community. Yap adds the storage device of a DVR to the community content distribution system of Knight. Both are concerned with providing users with content tailored to their interests. Knight automates the discovery of content of interest for the Yap user. It would have been obvious to one of ordinary skill in the art to have combined Knight and Yap.

As for Claims 2, 8, and 15, Knight as modified teaches the parent Claims of 1, 7, and 14. Knight also teaches wherein: the community interest is determined based on a percentage of members in the community that have accessed the content (See e.g.

Knight - col. 6, lines 38-53, col. 7, lines 14-18 Fig 3D hot list, and Claim 2).

As for Claims 3, 9, and 16, Knight as modified teaches the parent Claims of 1-2, 7-8, and 14-15. Knight also teaches the community interest is compared to a reference to initiate the automatically distributing (See e.g. Knight - col. 6, lines 33-67).

As for Claims 4, 10, and 17, Knight as modified teaches the parent Claims of 1, 7, and 14. Knight also teaches wherein: the automatically distributing includes storing the content on a consumer storage device associated with the consumer (See e.g. Knight - col. 6, lines 33-37 and lines 53-67).

As for Claims 6, 12, and 19, Knight as modified teaches the parent Claims of 1, 7, and 14. Knight also teaches wherein: the automatically distributing the content is dependent on a consumer preference to receive automatically distributed content (See e.g. Knight - col. 23, lines 49-67).

As for Claim 20, Knight as modified teaches the parent Claim 1. Knight also teaches wherein: the content includes at least one of video, audio and consumer-generated content (See e.g. Knight - col. 8, lines 54-65).

As for Claim 23, Knight as modified teaches the parent Claim 7. Knight also teaches a plurality of network elements including… consumer storage devices and network storage devices (See e.g. Knight – col. 6, lines 53-60, col. 22, lines 58-67 and col. 23, lines 53-60). Knight does not expressly teach set-top boxes. However, Yap teaches set-top boxes (See e.g. – Yap – Abstract and paragraphs [0035-0036]).

As for Claim 24, Knight as modified teaches the parent Claim 1. Knight also teaches wherein the grid computing platform determines when to store a video program in response to customer preference and customer viewing habits (See e.g. Knight – col. 6, lines 31-52 and col. 7, lines 5-18).

As for Claim 25, Knight as modified teaches the parent Claim 1 and 24. Knight also teaches wherein the grid computing platform determines where to store the video program across a plurality of network elements, including storing the video program on a consumer storage device (See e.g. Knight – col. 6, lines 53-60, col. 22, lines 58-67 and col. 23, lines 53-60).

As for Claim 22, Knight teaches:

A controller for controlling distribution of content, the controller comprising:

a processor …, the processor executing processing including:

receiving input from a consumer to join a community (See e.g. Knight - subscribers – col. 5, lines 9-14),

receiving content having a community interest in the content in response to members of the community accessing the content (See e.g. Knight - col. 6, lines 38-53, col. 7, lines 14-18, Fig 3D hot list, and Claim 2); and

notifying the consumer that the content is available (See e.g. Knight - col. 26, lines 23-26- alerted and col. 23, lines 49-67).

Knight does not expressly call its network a grid computing network. However, Pea teaches a processor executing a grid application as part of a grid computing platform implemented by a plurality of geographically dispersed network elements, the grid computing platform executing a grid application to control resources within a distribution network (See e.g. Pea - paragraphs [0061] and [0095-0109])..

Knight does not expressly call its digital content broadcast television. However, Yap teaches the content being broadcast television programming (See e.g. Yap – paragraph [0039]). Yap also teaches for storage a consumer digital video recorder accessible over a consumer network (See e.g. Yap – paragraphs [0011-0012], [0035-0040] and [0049-0052]).

Knight and Pea are from the analogous art of content distribution. It would have been obvious to one of ordinary skill in the art at the time the invention was made having the teachings of Knight and Pea to have combined Knight and Pea. The motivation to combine Knight and Pea is improve access to content in a networked user

community. Pea adds details about the video creation and grid networking for distribution to the system of Knight. Both deal with authoring, sharing and distributing content to users. Both track interaction profiles and user communities.

Knight and Yap are from the analogous art of personalized content distribution. It would have been obvious to one of ordinary skill in the art at the time the invention was made having the teachings of Knight and Yap to have combined Knight and Yap. The motivation to combine Knight and Yap is improve access to personalized content in a networked user community. Yap adds the storage device of a DVR to the community content distribution system of Knight. Both are concerned with providing users with content tailored to their interests. Knight automates the discovery of content of interest for the Yap user. It would have been obvious to one of ordinary skill in the art to have combined Knight and Yap.

9. Claims 5, 11, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knight as modified by Pea and Yap above, and further in view of Levinson, U.S. Patent No. 5,404,505 (hereinafter Levinson).

As for Claims 5, 11, and 18, Knight as modified teaches the parent Claims of 1, 4, 7, 10, 14 and 16. Knight also teaches further comprising:

notifying the consumer that the content is available on the consumer storage device (See e.g. Knight - col. 26, lines 23-26- alerted and col. 23, lines 49-67).

Knight considers subscription fees (See e.g. Knight - col. 28, lines 23-34) and charging for the use of features (See e.g. Knight - col. 18, lines 42-45) but does not expressly teach billing a customer based on the content they view. However, Levinson teaches billing the consumer upon the consumer accessing the content on the consumer storage device (See e.g. Levinson – col. 4, lines 26-30).

The motivation to combine Knight and Pea and Yap is explained above with Claim 1. Knight and Levinson are from the providing content to subscribers. It would have been obvious to one of ordinary skill in the art at the time the invention was made having the teachings of Knight and Levinson to have combined Knight and Levinson. The motivation to combine Knight and Levinson comes from common practice of charging consumers for a service. Knight has subscription fees (See e.g. Knight - col. 28, lines 23-34) and charging for the use of features (See e.g. Knight - col. 18, lines 42-45). Levinson provides a common enhancement to that billing system that links the charge to the content item accessed.

Response to Arguments

10. Applicant's arguments based on the amendments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Brandenberg et al. - U.S. Patent No. 6,834,195 teaches the distribution of digital content to multiple devices and considering user preferences and interests.

Mourad et al. - U.S. Patent No. 7,213,005 teaches the link to web-based distribution of broadcast television.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christyann Pulliam whose telephone number is (571)270-1007. The examiner can normally be reached on M-F 9 am-6 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christian Chace can be reached on 571-272-4190. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. P./

Examiner, Art Unit 2165
March 19, 2008
/Neveen Abel-Jalil/
Primary Examiner, Art Unit 2165
3/19/08